

9. Changes to the Agreement

a. Amendments

1. This Agreement may be amended to make changes, including without limitation: additional funds, additional time, additional or modified tasks, and additional or modified terms.
2. The Contractor acknowledges that provisions included in this Agreement pursuant to Federal or State law, regulation, or policy are subject to change. The Contractor agrees to comply with any amendments that the Energy Commission makes to this Agreement to comply with Federal or State law, regulation, or policy.
3. Formal Amendments

Significant changes to this Agreement must be approved at a Commission business meeting through a formal amendment. Significant changes include, but are not limited to:

- Change of Recipient's legal name,
- Change of Recipient, or
- Changes to Work Statement that ~~reasonably~~ substantially modify the purpose of the Agreement, ~~or,~~
- ~~Reallocations of more than 10% of the total budget amount between the line items of the Category Budget (Exhibit B) pursuant to subsection (b) below.~~

The following changes are not permitted for this Agreement:

- Changes to the Work Statement that extend the due dates beyond the term of the Agreement,
- Changes to the Budget that increase the amount of the Agreement, or
- Reallocations to the Budget that reduce the cost-effectiveness of the project below the minimum cost-effectiveness standard specified in the Block Grant Guidelines,

The Recipient shall submit a request in writing to the Project Manager with a copy to the Commission Grants and Loans Officer for any permissible, significant change. The Project Manager will notify the Recipient Project Manager of the appropriate Commission action within ten (10) working days.

4. Informal Amendments

The Commission's Project Manager may approve changes to this Agreement that are not significant, including changes required to comply with Federal or State law, regulation, or policy. These changes shall be documented in a letter of agreement between the Recipient and the Commission Grants and Loans Officer.

b. Budget Reallocations

- (1) The Commission, through its Project Manager and Grants and Loans Officer, and the Recipient can agree upon and make certain budget reallocations without a formal amendment to this Agreement as long as ALL of the following conditions are met:

~~(a) The total of all budget reallocations cannot exceed ten percent (10%) with a cap amount of \$75,000 of the Agreement Amount. For purposes of this "Budget Reallocation Rule" "Agreement Amount" means the total amount of Commission funds being paid to the Recipient under this Agreement. It does not include any match funds provided by the Recipient. For example, if under an agreement the Commission agrees to pay a recipient \$100,000 and the recipient is supplying \$500,000 in match funding, the ten percent (10%) limitation applies to the \$100,000. Only up to \$10,000 of Commission funds could be reallocated without a formal amendment. If under an agreement the Commission agrees to pay a recipient \$800,000, ten percent would be \$80,000, but the cap is \$75,000, so the most that could be reallocated without a formal amendment is \$75,000; AND~~

~~(b)~~(a) The budget reallocation cannot substantially change the scope of work. Examples of budget reallocations that do not substantially change the scope of work include, but are not limited to, the following:

- Increasing or decreasing the overall travel budget. This does not mean an increase to the allowed per diem rates under this Agreement.
- Increasing or decreasing the equipment budget, including increasing or decreasing the quantity of equipment already proposed in the project as long as the project has been previously approved in the agreement. This does not include adding equipment for additional projects not previously approved in the budget. Adding additional projects is a change in scope and requires a formal amendment. For example, a project to retrofit fifty T-12 lights with fifty T-8 lights may be increased to a project that retrofits sixty T-12 lights with sixty T-8 lights if the project comes under budget. This does not

require a formal amendment. But using the left over money for lighting control project that was not previously approved in the Agreement is a formal amendment and needs to be approved at a Commission business meeting.

- Increasing or decreasing the number of personnel assigned to complete tasks; AND,

~~(c)~~ (b) The budget reallocation only involves moving funds between budget categories. The total Agreement Amount must remain unchanged. Increasing the total amount of the Agreement is not permitted; AND,

~~(d)~~ (c) The budget reallocation does not cause the project to fall below the minimum cost-effectiveness standard as described in the Block Grant Guidelines.

- (2) To effectuate a budget reallocation under this section, the Recipient must make a request in writing to both the Commission Project Manager and the Grants and Loans Officer. Both the Commission Project Manager and the Grants and Loans Officer will then approve or disapprove the request in writing; the approval or disapproval is not effective or binding unless signed by both the Commission Project Manager and the Grants and Loans Officer. Oral communications cannot be used or relied upon. If the request is approved, the Commission Project Manager shall revise the Budget Attachments to reflect the changes and send them to the Grants and Loans Officer and the Recipient.
- (3) Any desired budget reallocations that do not meet ~~both the~~ the criteria in this section must be made through a formal amendment. For purposes of this provision, a “formal amendment” means that all of the following must occur: approval by the Commission at a Commission business meeting and a written amendment signed by both parties. Attempted budget reallocations that do not meet the requirements of this section are not legally binding upon the parties.

c. Federal Approval

Amendments may also require prior written approval from DOE.